

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

The Huntington National Bank,
a national banking association,

Plaintiff,

- vs -

Elliott Investment Co. Inc.,
a Michigan corporation,

Defendant.

Case No. 2:19-cv-10511

HONORABLE STEPHEN J. MURPHY, III

DOUGLAS C. BERNSTEIN (P33833)
Plunkett Cooney
Attorneys for Plaintiff
38505 Woodward Ave., Suite 100
Bloomfield Hills, MI 48304
(248) 901-4000
dbernstein@plunkettcooney.com

JOEL E. GRAND (P51261)
Grand & Grand PLLC
Attorneys for Defendant
31731 Northwestern Hwy., Suite 115E
Farmington Hills, MI 48334
(248) 538-3737 x101
joel@grandandgrand.com

G. TIMOTHY MOORE (P31349)
Moore Penna & Associates PLLC
Attorneys for Court Appointed Receiver
M. Shapiro Management Company LLC
38600 Van Dyke Ave., Suite 300
Sterling Heights, MI 48312
(586) 883-6585 x3
tmoore@moorepennalaw.com

JOINT STATUS REPORT

Plaintiff The Huntington National Bank, Defendant Elliott Investment Co. Inc., and the Court Appointed Receiver, M. Shapiro Management Company LLC, by and through their respective attorneys, submit the following for their Joint Status Report as required by the Court's Order Requiring Joint Status Report that was entered on October 29, 2020 (ECF No. 26, PageID.465.)

1. **Background.** Plaintiff The Huntington National Bank filed its Complaint on February 20, 2020 to collect a loan in default owed to it by Defendant Elliott Investment Co. Inc., which loan was secured by a mortgage on a vacant 315,000 square foot industrial building owned by Defendant at 6600 (a/k/a 6660) Mt. Elliott in Detroit, Michigan (the “Property”). (ECF No. 1, PageID.1-11.)

2. **Appointment of Receiver.** The Court appointed M. Shapiro Management Company LLC as the Receiver of the Property on April 4, 2019 in an Order Granting Plaintiff’s Motion for Appointment of Receiver (the “Receivership Order”). (ECF No. 8, PageID.195-217.) Under the Receivership Order, the Receiver was, among other things, charged with taking possession and control of the Property, maintaining it and selling the Property.

3. **Receiver Activities.** In addition to keeping the Property secured and selling the Property, the Receiver dealt with a break-in and vandalism and a resultant insurance claim, repaired a building siding collapse, and responded to multiple blight abatement/enforcement efforts by the City of Detroit.

4. **Property Sale.** Pursuant to a Stipulation and Order Approving Procedure for Receiver to Sell Mortgaged Property that was entered on September 10, 2019 (ECF No. 15, PageID.253-262.), the Receiver conducted a stalking horse auction sale of the Property. However, the stalking horse auction sale eventually fell through due to the purchaser’s dissatisfaction with its due diligence inspection of the Property. However, the Receiver was subsequently able to sell the Property for \$4,125,000.00 pursuant to an Order Approving the Sale of the Mortgaged Property by the Receiver (the “Order Approving Sale”) entered on March 20, 2020. (ECF No. 19, PageID.313-318.). After some delays due to COVID-19 related issues, the sale closed on June 5, 2020. The Receiver applied \$2,813,882.82 in sale proceeds to the loan owed by Defendant to

Plaintiff, paid escrowed items, the broker's commission, usual closing expenses and prorations, paid surplus sale proceeds to Defendant in the amount of \$608,563.58, and retained a \$300,000.00 Holdback Fund as required by the Order Approving Sale to cover the Receiver's fees, the Receiver's costs and attorneys' fees, Plaintiff's out-of-pocket expenses (including but not limited to any unreimbursed protective advances, appraisal fees, UCC search fees, title fees), costs and attorneys' fees, and any outstanding or projected expenses of the Receivership Estate, including but not limited to any insurance premiums, utility charges, operating expenses, payroll expenses and other charges related to the Receivership Estate.

5. **Motion re: Receiver's Fees and Receiver's Attorneys' Fees and Expenses.** As noted by the Court in the Order Requiring Joint Status Report (ECF No. 26, PageID.465.), there remains pending before the Court the Receiver's Motion for Entry of Order Approving Payment of Receiver's Fees and Receiver's Attorneys' Fees and Expenses with an accompanying Brief (ECF No. 23, PageID.388-400.). Unless there is a contested matter that needs to be addressed necessitating further pleadings and/or hearings, or any unexpected appeal, the request for payment of the Receiver's fees and the Receiver's attorneys' fees and expenses will be final.

6. **Funds on Hand.** The Receiver currently has on hand \$292,464.34 from the \$300,000.00 Holdback Fund, plus the following amounts received by the Receiver post-closing: \$15,820.04 from an insurance claim, \$5,000.00 from a water escrow refund and \$21,636.48 from the City of Detroit Water and Sewerage Department.

7. **Other Creditors.** The parties are not aware of any other creditors of Defendant or expenses in addition to the Receiver's fees and the Receiver's attorneys' fees and expenses remaining to be paid from sale proceeds.

8. **Steps to Close the Case.** The following steps need to occur before the case is closed:

(a) Entry of an order ruling on the Receiver's Motion for Entry of Order Approving Payment of Receiver's Fees and Receiver's Attorneys' Fees and Expenses;

(b) Payment of the Receiver's Fees and Receiver's Attorneys' Fees and Expenses that may be ordered by the Court;

(c) Disbursement to Defendant of any funds remaining in the hands of the Receiver; and

(d) Entry of an Order Discharging the Receiver, terminating the Receiver's bond (ECF No. 10, PageID.219-221.) and closing the case, which the parties expect will be submitted to the Court for entry by stipulation.

Respectfully submitted,

Dated: November 12, 2020

By: /s/ with consent of Douglas C. Bernstein
DOUGLAS C. BERNSTEIN (P33833)
Plunkett Cooney
Attorneys for Plaintiff
38505 Woodward Ave., Suite 100
Bloomfield Hills, MI 48304
(248) 901-4000
dbernstein@plunkettcooney.com

By: /s/ with consent of Joel E. Grand
JOEL E. GRAND (P51261)
Grand & Grand PLLC
Attorneys for Defendant
31731 Northwestern Hwy., Suite 115E
Farmington Hills, MI 48334
(248) 538-3737 x101
joel@grandandgrand.com

By: /s/ G. Timothy Moore
G. TIMOTHY MOORE (P31349)
Moore Penna & Associates PLLC
Attorneys for Court Appointed Receiver
38600 Van Dyke Ave., Suite 300
Sterling Heights, MI 48312
(586) 883-6585 x3
tmoore@moorepennalaw.com